

# United States District Court

NORTHERN

FILED DISTRICT OF

CALIFORNIA

UNITED STATES OF AMERICA

2007 AUG 13 P 2:11

E-FILING

V.

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

CRIMINAL COMPLAINT

Adolfo MORALES-Ortunio

(Name and Address of Defendant)

Sm

07 70480 HRL  
CASE NUMBER:

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On a date unknown but no later than, July 27, 2007, in Santa Clara County in the Northern District of California defendant(s) was, (Track Statutory Language of Offense)

Unlawfully re-entered and was found in the United States after deportation, without the permission of the Attorney General

in violation of Title 8 United States Code, Section(s) 1326  
I further state that I am a(n) Deportation Officer and that this complaint is based on the following facts:  
Official Title

SEE ATTACHED AFFIDAVIT

PENALTIES: \$250,000.00 fine, twenty (20) years imprisonment, \$100.00 special assessment fee, and a Term of Supervised Release up to three years.

Requested bail: Issue no bail warrant.

APPROVED AS TO FORM:

Bryan T. Kennedy  
ASSISTANT UNITED STATES ATTORNEY

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,

Signature of Complainant

8/13/07  
Date

at

San Jose, California  
City and State

Howard R. Lloyd  
United States Magistrate Judge  
Name & Title of Judicial Officer

Signature of Judicial Officer

RE: MORALES-Ortunio, Adolfo A77 170 771

I am a Deportation Officer of the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) and have been employed since July 7, 1997. I am currently assigned to the Criminal Alien Program (CAP) Unit of the San Jose Sub-Office. In such capacity, I have reviewed the official file relating to the above named individual, which attests to the following:

- (1) Mr. MORALES-Ortunio is a 31-year-old male who has used six (6) aliases and three (3) dates of birth in the past.
- (2) Mr. MORALES-Ortunio has been assigned one (1) Alien Registration number of A77 170 771, FBI number of 737869HB3, California Criminal Information Index number of A12162654, and a Santa Clara County Personal File Number of DOB403.
- (3) Mr. MORALES-Ortunio is a native of Mexico and a citizen of Mexico since birth. A check through official records shows that he was arrested and deported on two (2) occasions from the United States:

**DATE**

02/27/1999

12/13/2002

**PLACE OF DEPORTATION**

Calexico, CA

San Ysidro, CA

- (4) Mr. MORALES-Ortunio last entered the United States at or near San Ysidro, CA on or after December 13, 2002, by crossing the international border without inspection subsequent to deportation.
- (5) Mr. MORALES-Ortunio on a date unknown, but no later than July 27, 2007, in Santa Clara County in the Northern District of California, was found to be unlawfully present in the United States, after prior arrests and deportations, without the permission of the Attorney General or the Secretary of Homeland Security, in violation of Title 8, United States Code, Section 1326. On August 6, 2007, Mr. MORALES-Ortunio was interviewed by Immigration Enforcement Agent (IEA) James Freer at the ICE Office, San Jose, CA, and during that interview, Mr. MORALES-Ortunio was advised of his **Miranda** rights in Spanish. Mr. MORALES-Ortunio invoked his **Miranda** rights and refused to answer questions from the sworn statement. On May 10, 2001, Mr. MORALES-Ortunio provided a sworn statement attesting to his alienage, prior deportation, and failure to obtain permission from the Attorney General or the Secretary of Homeland Security to re-enter the United States.

RE: MORALES-Ortunio, Adolfo A77 170 771

- (6) Mr. MORALES-Ortunio was, on September 29, 1998, convicted in the Superior Court of California, in and for the County of Fresno, for the offense of POSSESSION COCAINE BASE FOR SALE, an aggravated felony, in violation of Section 11351.5 of the California Health and Safety Code, and was sentenced to three hundred (300) days in jail.
- (7) Mr. MORALES-Ortunio was, on August 10, 2000, convicted in the Superior Court of California, in and for the County of Santa Clara, for the offense of LEWD OR LASCIVIOUS ACT ON A CHILD UNDER 14, an aggravated felony, in violation of Section 288(a) of the California Penal Code, and was sentenced to three (3) years in prison.
- (8) On the basis of the above information, there is probable cause to believe that Mr. MORALES-Ortunio illegally re-entered the United States, in violation of Title 8, United States Code, Section 1326.

  
\_\_\_\_\_  
Trong Q. Nguyen  
Deportation Officer  
Immigration and Customs Enforcement

Subscribed and sworn to before me this 13 day of Aug., 2007

  
\_\_\_\_\_  
HOWARD R. LLOYD  
UNITED STATES MAGISTRATE JUDGE